

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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| NESTLE WATERS NORTH AMERICA, INC., | § | |
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| Plaintiff, | § | |
| v. | § | CIVIL ACTION NO. H-07-cv-00998 |
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| EXEL, INC. AND PROLOGIS BT, INC., | § | |
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| Defendants. | § | |

MEMORANDUM AND ORDER

Before the Court is Plaintiff Nestle Waters North America, Inc.'s Supplemental Motion for Leave to File Second Amended Complaint (Doc. No. 62) and Defendant ProLogis BT, Inc.'s Motion to Strike Designation of Corvus Construction as a Responsible Third Party (Doc. No. 75).

After considering the parties' filings and the applicable law, the Court finds that Nestle Waters North America, Inc ("Nestle") has satisfied the minimal evidentiary burden necessary to join Corvus Construction Company, Inc. ("Corvus") as a defendant in the lawsuit. Plaintiff's Supplemental Motion for Leave to File Second Amended Complaint is **GRANTED**; Defendant's Motion to Strike is **DENIED**.

As Nestle and Corvus are both corporate citizens of Delaware, this Court no longer has jurisdiction over the matter. This case is therefore **REMANDED** to the 129th Judicial District Court, Harris County, Texas for further proceedings.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 29th day of September, 2008.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO ENSURE PROPER NOTICE, EACH PARTY WHO RECEIVES
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**